

REMARKS

Applicant's remarks below are preceded by quotations of relevant remarks from the office action in bold-face, small type.

2. The new abstract of the disclosure is objected to because: The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(1). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

The abstract is presented on a separate sheet at the end of this response.

3. The new title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The title has been amended.

4. The terminal disclaimer has not been entered because it does not comply with 37 CFR 1.321(b)(3) because:

4a. The person who has signed the disclaimer has not stated the extent of his/her interest, or the business entity's interest, in the application/patent. See 37 CFR 1.321(b)(3).

4b. The assignee has not established its ownership interest in the application, in order to support the terminal disclaimer. There is no submission in the record establishing the ownership interest by either (a) providing documentary evidence of a chain of title from the original inventor(s) to the assignee, or (b) specifying (by reel and frame number) where such documentary evidence is recorded in the Office (37 CFR 3.73(b)). Application/Control Number: 091369,391 Art Unit: 2161

There is no assignee. A substitute terminal disclaimer is will be submitted shortly.

Response to Arguments

5. Applicant is requested to point out support for the amendments to the claims.

The following table identifies examples of text supporting the claims added in the response of January 11, 2001:

claim 73	at page 33, line 22, ("Defined Customer Desires") and page 92, lines 1-3.
claim 74	at page 90, beginning at line 10.
claim 75	at page 57, lines 26 to 27 ("use of a particular product feature"). Other features of claim 75 have been removed from claim 75 and moved to new claims 79, 80, and 81.
claim 76	at page 80, line 3.
claim 77	at page 182, lines 25 to 27.
claim 78	at page 41, lines 4 to 9.
claim 79	at page 60, line 17 ("exiting an important new product feature without using it").
claim 80	at page 61, line 14 ("error").
claim 81	at page 57, line 21 ("help button).
claim 82	claim 66
claim 83	at page 82, line 13
claim 84	at page 82, line 20
claim 85	at page 82, line 20
claim 86	at page 82, line 13
claim 87	at page 82, line 20
claim 88	at page 19, lines 18 to 30
claim 89	claim 72
claims 90-93	at page 46
claim 94	claim 67 and page 181, lines 14 to 23

claim 95	at page 57, line 19
claim 96	at page 61, line 14
claim 97	at page 57, line 19
claim 98	at page 113, lines 23-25
claim 99	at page 113, lines 30

6. Applicant's amendment to claim 48 to remove the phrase "as perhaps" and add a semi-colon, as requested, also removed certain limitations necessitated the new 112 rejection.

See comments below made with respect to paragraph 13 of the office action.

9. Applicants arguments regarding the 103 (a) rejection of claims 67 and 68 have been considered, and are not persuasive. See brief note below and rejection below.

Kurland discloses rapid collection and dissemination of survey information between panelist stations, a central computer and back to the panelist stations based upon certain demographics of the panelists, see Column 5, line 20 -Column 6, line 41.

Frost teaches value information in surveys, such as emotional reasons, trust, status, collected and evaluated electronically, see column 3, line 34 -column 4, line 50.

Contrary to statements from applicant's response of January 11, 2001, that might be construable otherwise, applicant concurs that the attributes of Frost are one type of value information. See applicant's comments below with respect to paragraph 17 of the office action.

10. Claims 48-78 are rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-48 of U. S. Patent No. 5,999,908. Although the conflicting claims are not identical, they are not patentably distinct from each other because a system for storing a repository of value information, determine based upon triggers indicated by a customer set preferences when value information would be useful, in response to the determining, distribute the value information to the user would be included as necessary to perform the invention.

Applicant does not concede the examiner's double patenting rejection but encloses a terminal disclaimer to expedite prosecution.

11. Claim 48 is objected to because of the following informalities:

Claim 48 is recites the limitation "a repository" in line 10. The claim was originally correctly stated as "the repository, before an incorrect antecedent basis rejection was made, the repository of line 10 appears to be based on the repository of line 3.

Appropriate correction is required.

Claim 48 has been amended.

12. Claim 67 is rejected under 35 U. S. C. 101 because the claimed invention is inoperative and therefore lacks utility. Specifically, claim 67 is directed to a medium upon which a database is stored, coupled to a communication network, to enable users to interchange information, but the claim never actually exchanges, transforms or displays any data, it therefore lacks utility.

Without conceding the examiner's argument, with which the applicant disagrees, applicant has amended claim 67.

13. Claims 48-66, 73-78 are rejected under 35 U. S. C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP §2172.01. The omitted elements are:

"the repository comprises a user desires database or user-set preferences"
and

"triggers based on user desires databases or user-set preferences" (as indicated by figures 13 or 23).

Claim 48 has been amended.

14. Claims 48-66,73-78 are rejected under 35 U. S. C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per Claim 48.

Specifically, the use of the term "client" is confusing, at times it seems to refer to the device/software and at other times to refer to the user of the device (it seems more correct to refer to the client as "client, which may be a device or software" as in claim 72) because the client appears to have some human need or quality. For example, in claim 48, lines 2, 7, 13 and 15, refer to the client, but line 9 refers to a user of the device and it is unclear how at line 13 (and also in claim 58) information would be useful to a client, rather than a user. Similar examples exist in claims 54, 55, 56, 58, 61, 62, 65, 77 and 78.

Further the term "useful" is a subjective term and therefore indefinite.

Claim 48 has been amended.

As per Claim 61, 65.

Similarly, to claim 48, it is unclear how a "client, "uses" the products, services, software or information, it seems that the user might use the products, services, software or information and the client may detect and report or store use by a user.

Claims 61 and 65 have been amended.

As per Claim 62.

Similarly, to claim 48, it is unclear how a "client, "assesses the value" of the products, services, software or information, it seems that the user might be prompted by the client to assess the products, services, software or information.

Claim 62 has been amended.

As per Claim 75.

It is unclear what the grouping consists of, a colon following the word, "of", and the listing, on separate lines, of use of, premature termination of, exception resulting from use of or user-initiated help request for the products, services, software or information might be more clear.

Claim 75 has been amended.

15. Claim 72 is rejected under 35 U. S. C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, line 5, the phrase "client device or software" has been cut to include simply "the client device", which makes the scope of the claim indefinite. Further, it is unclear how the user is presented with the additional value information of line 7, as stated it could be a print advertisement not associated with the device or software, it is therefore indefinite.

Claim 72 has been amended.

16. Claims 73, 74 are rejected under 35 U. S. C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 73 and 74 recites the limitation "customer desires" in line 1. There is insufficient antecedent basis for this limitation in the claim.

There is no antecedent to customer desires in claim 48 as set forth in claims 73 and 74 because the inclusion of such customer desires or user set preferences is a limitation of claims 73 and 74, but not of claim 48.

17. Claims 48, 50-52, 54-59, 61-69, 73, 74, 77, 78 are rejected under 35 U. S. C. 103(a) as being unpatentable over Kurland et al (4,603,232) further in view of Frost (5,041,972).

As per Claim 48.

Kurland et al ('232) discloses a server storing information generated by independent users, see Column 5, line 20 -Column 6, line 41 software configured to receive information electronically from clients, see Column 5, line 20 -Column 6, line 41, store the information, see Column 5, line 20 -Column 6, line 41 determine based on triggers when information would be useful for one of the clients, see Column 5, line 20 -Column 6, line 41, and in response to the determining, distribute the information, electronically to one of the clients, see Column 5, line 20 -Column 6, line 41.

Kurland et al ('232) does not disclose the information is about the value of products, services, software or information.

Frost (5,041,972) teaches surveys of value information and users generating new value information interactively while using the stored value information, see Column 4, lines 34 -50 and see column 3, line 34 -column 4, line 50, for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to allow the users to generate new value information interactively while using the stored value information as taught by Frost ('972)'for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Claim 48 has been amended. In the claimed system, value information is distributed in response to a trigger from one of the client systems. Neither Frost nor Kurland discloses or suggests a trigger generated by one of the client systems.

As mentioned by the examiner, Kurland describes a panelist station 14 that receives a questionnaire from a host computer 12. Kurland describes an alarm signal device 40 as follows:

an alarm signal device 40, such as a conventional light or audio signal which is tripped when a survey control program is loaded into storage at the panelist station 14 (column 5, lines 33 to 36, Kurland).

and

In addition, as previously mentioned, the conventional alarm signal circuit 40 is preferably provided for providing an alarm indication, such as a light or a buzzer, when a market survey questionnaire or set of control instruction has been downstream loaded to the survey program RAM 54 so as to alert the panelist that a survey is to be responded to. (column 6, lines 29 to 26, Kurland).

Kurland's alarms are substantially different from the triggers of claim 48. The alarms of Kurland originate at the host computer 12 when a survey is available, whereas the triggers in the claimed system originate at one of the client systems. Also, the alarms of Kurland activate a **panelist station** to signal a panelist, whereas the triggers of the claimed system activate **the server** to distribute value information.

Neither Kurland nor Frost disclose a system which includes software configured to distribute value information to a client system in response to a trigger from a client system.

Thus, claim 48 is patentable over Kurland and Frost. Claims 49 to 66 and 73 to 78 depend from claim 48 and are patentable at least for the same reasons as claim 48.

As per Claim 67.

Kurland et al ('232) discloses a digital medium storing information generated by independent users, the medium being coupled to an electronic

communication network, and interchange of new information from the users to the digital medium and of stored information from the medium to the users, see Column 5, line 20 -Column 6, line 41.

Kurland et al ('232) does not disclose the survey is about the value of products, services, software or information.

Frost (5,041,972) teaches surveys of value information and users generating new value information interactively while using the stored value information, see Column 4, lines 34 -50 and see column 3, line 34 -column 4, line 50. 'for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to allow the users to generate new value information interactively while using the stored value information as taught by Frost ('972)'for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Claim 67 has been amended.

The claimed system requires an electronic communication interface that sends information stored on the digital medium to users of products, services, software or information. Neither Frost nor Kurland suggest or describe an interface for sending information generated by independent users back to the users in response to actions of the users.

Claims 68 to 71 depend from claim 67, and are patentable for at least the same reasons as claim 67.

21. Claim 72 is rejected under 35 U. S. C. 103(a) as being unpatentable over McKenna et al (4,816,904) further in view of Frost (5,041,972).

As per Claim 72.

McKenna et al ('904) discloses a user records information on a client device or software, see column 3 lines 11-20, the client device or software sends the information to a server for storage, see column 3, lines 21-31 'and the user is presented with the information in the course of working with the commodity, see column 3, lines 35-60.

McKenna et al ('904) does not disclose the information is value information about a commodity or that additional information, recorded by others is received.

Frost (5,041,972) teaches users generating value information and that value information entered by others is received, see Column 3, lines 3445, and column 4, lines 34 -50, for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of McKenna et al ('904) to allow the users to generate value information, analyze the value information, and distribute the new value information as taught, by Frost ('972)'for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Claim 72 has been amended. The claimed method includes receiving value information from a server in response to an event generated by a user's working with the commodity. Neither McKenna nor Frost suggest or disclose receiving value information from a server in response to an event based on a user's interaction with a commodity.

McKenna describes an alarm at a panelist station at column 12, line 62 to column 13, line 3:

Whenever the data collection unit contains an unanswered questionnaire, the data collection unit will illuminate the survey light emitting diode 32 on the front panel of the data collection unit so as to inform a panelist that the data collection unit contains a survey which has not been answered. Anytime that this light emitting diode 32 is illuminated, the panelist may elect to turn on the television and depress the survey select mode select switch on the front panel of the data collection unit.

Such an alarm is activated in response to the availability of a survey questionnaire at the data collection unit. The data collection unit does not receive information from a server in response to an event based on the user's interaction with the data collection unit. Rather, in McKenna, the data collection unit first receives a survey questionnaire and then illuminates a diode to signal a panelist.

In contrast, in the method of claim 72, a client device receives value information from a server in response to an event based on the user's interaction with a commodity. Neither Frost nor McKenna disclose or suggest such a method. Thus, claim 72 is patentable over Frost and McKenna.

Attached is a marked-up version of the changes being made by the current amendment.

Applicant : Daniel H. Abelow
Serial No. : 09/369,391
Filed : August 6, 1999
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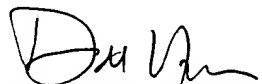
Attorney's Docket No.: 03058-004002

Applicant asks that all claims be allowed. Enclosed is a \$189 check for excess claim fees and a \$195 check for the Petition for Extension of Time fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

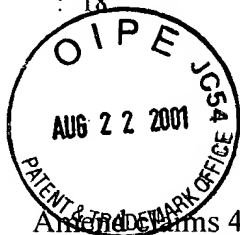
Date: _____

8/17/01



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Version with Marked Changes

Amended claims 48-66, and 73-78 as follows:

48. (three times amended) A system comprising a server that is electronically accessible to multiple [clients] client systems;

the server storing [a repository of] value information indicative of the values of respective products, services, software, or information as determined by users of the products, services, software, or information, and

software configured to :

receive value information electronically from [clients] the client systems regarding what [value information] would [be necessary to] make a product, service, software, or information valuable [to a user], [,]

store the received value information [in a repository],

[determine, based on triggers, when value information associated with a particular product, service, software, or information would be useful for one of the clients,] and

in response to [the determining] a trigger from one of the client systems, distribute the stored value information for the product, service, or information electronically to the one of the [clients] client systems [from the repository].

49. (previously amended) The system of claim 48 in which the server is electronically accessible through the Internet.

50. (reiterated) The system of claim 48 in which the server is electronically accessible through an internal network.

51. (previously amended) The system of claim 48 in which the server is electronically accessible to users of a particular product, service, software, or information.

52. (reiterated) The system of claim 48 in which the value information comprises value judgments.

53. (reiterated) The system of claim 48 in which the value information comprises navigational pointers that point to information that a user has determined to be useful.

54. (amended) The system of claim 48 in which each of the client systems includes a software application[s] that embeds a pointer to the server that enables a user to invoke the server directly from the software application to obtain value information related to the use of the client system.

55. (twice amended) The system of claim 54 in which the pointer is automatically displayed during use of the client system.

56. (amended) The system of claim 48 in which the server prompts at least some of the client systems to supply additional value information to the server.

57. (amended) The system of claim 48 in which the server receives information from a client [the] software application [in the client] that periodically supplies additional value information to the server.

58. (twice amended) The system of claim 48 in which the server initiates delivery to the client[s] systems of [new] value information concerning products, services, software, or information of interest to the users of the client[s] systems.

59. (reiterated) The system of claim 48 in which the value information is continually updated.

60. (previously amended) The system of claim 48 in which the server provides addresses of, and at least one of rankings, comments, and ratings of the products, services, software, or information.

61. (twice amended) The system of claim 48 in which the software is further configured to [further comprising] detect[ing] uses by a user [the client] of the products, services, software, or information.

62. (twice amended) The system of claim 61 in which the software is further configured to [further comprising] prompt[ing] the user [client] for an assessment of the value of the products, services, software, or information used.

63. (twice amended) The system of claim 62 in which the assessment information is returned to the server from the client system.

64. (twice amended) The system of claim 62 in which the assessment information is stored at the client system and periodically returned to the server from the client system.

65. (amended) The system of claim 48 in which the server collects value information when at least one of the following occurs:

- a [client] user uses the products, services, or information on-line,
- a [client] user uses the products, services, or information from versions that are downloaded to the client system, and
- another server shares the value information with the server.

66. (amended) The system of claim 48 further comprising presenting distributed value information to a user in [one or more of the following styles] a style comprising: text, lists, charts, views, arrangements, hierarchies, graphical maps, sample extracts, abstracts, summary descriptions, or hypertext.

67. (three times amended) A system comprising:

a digital medium storing information generated by independent users about the value of products, services, software, or information, the medium being coupled to an electronic communication network [to enable interchange of new value information]; and

an electronic communication interface that receives the information from the users to the digital medium and [of] sends stored value information from the medium to the users in response to actions of the users.

68. (reiterated) The system of claim 67 in which the users generate the new value information interactively while using the stored value information.

69. (reiterated) The system of claim 67 further comprising digital filters configured to identify patterns of sources of value information and fetch the identified information over the network.

70. (reiterated) The system of claim 69 in which the services comprise video or music, the value information concerns the content of the video or music, and the filter controls the display of video or music based on the content represented in the value information.

71. (amended) The system of claim [70] 69 in which the filters provide information to the server about user preferences, and the server makes the information available to vendors of products, services, or information.

72. (twice amended) A method in which a user of a commodity records value information on a client device [or software] about the commodity that is based on use of the commodity,

the client device [or software] sends the information to a server for storage,

the client device receives from the server additional value information recorded by other users, in response to an event based on the user's interaction with the commodity, and

the client device presents [user is presented with] the additional value information to the user in the course of the user's interaction [working] with the commodity.

73. (amended) The system of claim 48, wherein the stored value information [repository] comprises customer desires or user-set preferences.

74. (amended) The system of claim 48, wherein the trigger[s are] is indicated by customer desires or user-set preferences.

75. (amended) The system of claim [61] 48, wherein [a] the trigger [includes] comprises [an event selected from the group consisting of] use of a product, service, or software feature [; premature termination of a product, service, or software feature; an exception resulting from use of a product, service, or software feature; a user-initiated help request during use of a product, service, or software feature].

76. (amended) The system of claim [61] 48, wherein the value information obtained from the client system is obtained from passive evaluation.

77. (amended) The system of claim 48, wherein the value information distributed to one of the client[s] systems comprises value information received from another client system.

78. (amended) The system of claim 48, wherein the value information distributed to one of the client[s] system comprises instructions for use of the respective products, services, software, or information.

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In the abstract:

Please replace the abstract with the following new abstract:

-- An electronically accessible server receives, stores, and sends value information from customers. The server or other digital medium stores the value information generated by independent users. Triggers or interactions can be used to determine when value information would be useful for a user of a client system. The value information can include customer assessments, usage frequency, navigational pointers, executable program code, instructions, product information, and service information. A digital medium is used to store value information generated by independent users. The medium can be coupled to an electronic communication network to allow for interchange of information --